

# Indiana Gaming Commission

## RFP - AMENDMENT 1

**The following answers constitute Amendment Number 1 to the RFP issued on March 22, 2004. No extension of the due date of April 23, 2004 is authorized by this amendment. No other changes to the RFP have been made. No other changes to the RFP will be made unless issued as an authorized, written amendment to the RFP.**

Will the Commission allow an applicant to submit an alternative site location for the casino and make the response to the RFP based upon such alternative site in lieu of responding to the RFP based upon the site recommended by the HHPC?

Not as a standalone proposal; however, if an alternative site or sites are proposed, the applicant must also provide a comparison of the alternative site(s) and the site selected by the HHPC. To provide a comparison, in addition to answering all questions for the site selected by the HHPC, applicants must answer questions 1, 2, 3 (if applicable), 4, 5, 6, 7, 8, 9, 12, 13, 22, 23, 28, 29, 30, 32, and 42 for the alternative site(s). In addition, if other questions require revision when considered in the context of an alternative site, please also provide revised responses to those questions.

If the Commission allows the applicants to propose an alternative site, will the Commission extend the proposal deadline on page 7 of the RFP from April 23, 2004 to May 7, 2004?

At this time there is no provision to extend the deadline. Should applicants elect to submit a proposal including an alternate site, the previously established due date of April 23, 2004 will continue to apply. However, the Commission reserves the right for good and sufficient reason to extend the due date of the issued RFP. If a time extension should be made, it will only be made as a written amendment to the RFP.

In lieu of the second paragraph set forth in the Design Criteria submitted by the HHPC, will the Commission allow an applicant to respond to the RFP based upon a Design Criteria that provides?

“The casino (a vessel) should be of a design that blends in with the historic characteristics of the Historic Hotel District with a water feature of at least 60% of the size of the footprint of the Vessel surrounding 75% of the vessel.”?

Statute requires the Commission and the HHPC to agree upon a location and exterior design for the gaming facility. Unless the Commission is provided evidence that the recommendation of the HHPC is not feasible, the Commission is not inclined to deviate from the design characteristics described in the RFP or pertinent attachments. However, alternate proposals may offer different ideas for consideration.

Will the Commission clarify the meaning of the term “Docking and port facilities” as used on page 3 of the RFP under the heading **Gaming Facility**?

"Docking and port facilities" describes a pavilion area and boarding area adjacent to the vessel to be used for patron ingress and egress and casino amenities. This term also describes areas for employee ingress and egress and service deliveries to the vessel.

Will the Commission provide a draft of the operating agent contract for comment by the applicants prior to the due date for the responses to the RFP?

No, as the terms of the contract will be determined by the RFP process and the negotiations with the HHPC, the Commission will not be prepared to a draft a contract until an operating agent is chosen for this facility.

The Commission shall award the operating agent contract under I.C. 5-22-9. See I.C. 4-33-6.5-1. I.C. 5-22-9-9 provides, in part, that:

“In conducting discussions with an offeror, information derived from proposals submitted by competing offerors may not be disclosed.”

Will the responses to the RFP be kept confidential until such time as the operating agent contract is awarded? How will the public hearings of the Commission and the HHPC be conducted such that the contents of proposals are not disclosed to the other applicants?

IC 4-33-5 requires public disclosure of certain aspects of an applicant's proposal. In addition, unlike the requirements of the Indiana Department of Administration pertaining to the selection of respondents for contracts, the Commission is required to hold public meetings. Pursuant to IC 4-33-3-20, the Commission would not be able to reach a decision or vote to select an applicant in a forum other than a public meeting. For these reasons, applicants will be required to make a public presentation to the Commission prior to the selection of an operating agent. Participation in the public meeting will require disclosure of certain aspects of the proposals not only to the commission, but to members of the community and other applicants. After observing each presentation, applicants will have the opportunity to revise or improve proposals during the best and final offer stage of the process. While certain aspects of the proposals will be made public during the Commission meetings, the Commission will use the minimum amount of data from each proposal practical at the public meetings. In addition, discussion held with Commission staff will remain confidential, with the exception of any revisions resulting from those discussions that require disclosure.

The RFP provides on page 7 that: "Applicants will also have the opportunity to negotiate local issues with the HHPC during the time period designated by the Commission." Will the Commission monitor and have staff present for these negotiations?

The Commission does not anticipate having staff present to monitor the negotiations with the HHPC.

With respect to Question 9, are the total estimated salaries and benefits to be provided by position or in the aggregate for all positions?

Salaries should be provided by department.

With respect to Question 30, please clarify what is meant by projected monthly and annual returns?

The response should provide projected win and any other revenue earned by the operating agent from amenities at the facility or at other locations associated with the operation of the gaming facility.

With respect to Questions 37, 38, 39 and 40, is the time frame contemplated by these questions limited to the construction period?

Questions 37, 38, and 39 pertain to the experience of the applicant in all operational areas. Question 40 also pertains to the experience of the applicant and is specific to the initial construction phase of the project and any subsequent construction projects at the facility.

With respect to Question 22, does the HHPC and the two historic hotels contemplate that the room guarantee will be only available to the West Baden Springs Hotel at such time as it has a number of rooms available for occupancy equal to or greater than the number of rooms subject to the guarantee? Are the HHPC and the two historic hotels willing to provide guarantees with respect to certain levels and completion dates of improvements and renovations to the two historic hotels?

This is an issue that may be discussed during negotiations with the HHPC or prior to those negotiations with representatives of the hotels who are not members of the HHPC.

Question 4 of the RFP indicates that the successful applicant may be required to participate in community infrastructure developments. Has the community developed a list of proposed projects been compiled, and if so are there estimates for the costs of the projects?

The Commission is not aware of such a list. Nothing prohibits applicants from communicating with local officials who are not members of the HHPC regarding infrastructure improvements.

Question 9 requests a staffing plan for the casino and a breakdown of positions by full-time and part-time. The gaming industry is a 24 hour a day business in Indiana. Some employees prefer to work part-time to accommodate other jobs or family needs. How detailed a plan is the Commission seeking, and what provisions will the Commission make for altering the actual employment to accommodate business or employee needs?

The Commission expects the applicants to utilize their expertise and knowledge of the gaming market and work force to provide an accurate assessment of the mix of full- and part-time jobs necessary to support the gaming facility. Should the plan be altered in the future to accommodate the needs of employees, the Commission may review the utilization of a part-time workforce to ensure that such revisions were, in fact, instituted for the mutual benefit of the casino and workforce.

Question 15 asks for details of a marketing plan for the facility. While an understanding of the market is important, a detailed marketing plan requires great time, energy and money to develop, and is a fluid document that changes with market conditions. A plan developed at this stage may be obsolete by the opening date. How detailed a plan is the Commission seeking?

The amount of detail provided may be a factor in the evaluation of an applicant. The Commission understands that such plans may be altered as the project moves forward and will be open to discussions regarding such revisions.

Question 22 refers to the HHPC belief that the casino operator should guarantee hotel rooms at the historic hotel. For an operator to guarantee rooms, the operator must be confident the rooms meet certain quality standards. Would the Commission consider a room guarantee tied to room renovation reasonable?

The Commission anticipates that the operating agent will enter into an agreement or agreements that include mutually acceptable terms for the operating agent and the hotels.

Question 26 requests a security plan for the casino. A detailed security and surveillance plan is part of every casino opening and operations. However developing such a plan requires a commitment of resources that is usually reserved for a successful application. As the scope of the project evolves a security plan must remain flexible. How detailed a plan is the Commission seeking, and what constraints would there be in changing a proposed plan as the project takes shape?

This plan may be general, keeping in mind that the amount of detail included in the response may be a factor in the evaluation of an applicant. The Commission understands that such plans may be altered as the project moves forward and will be open to discussions regarding such revisions.

Question 27b requests a project budget summarizing costs for site improvement and construction. Should the “community infrastructure developments” be included in this number?

Infrastructure projects adjacent to the project site, such as an access road, may be included in this number. Other infrastructure projects should be included in the local development agreement and will be evaluated separately.

Question 28 requests detailed financial statements for 10 years. How should any “community infrastructure payments” be included since the applicants cannot negotiate with the community until after the proposal is due?

The Commission may request an updated response to this question if an agreement is reached with the HHPC or local units of government after the due date of the RFP.

Question 33 requests a schedule for upgrading the facility. It may be the case that upgrades are necessary in 18 months or 36 months or never depending on the success of the project. How would the Commission like the applicants to handle this scheduling question? Is it sufficient to say the project will be upgraded as business needs demand?

No. The Commission is seeking an operating agent that, among other things, maximizes win and benefits to the community through maintaining a high quality facility with adequate gaming positions and amenities. A plan for upgrading, improving and expanding the facility that reflects an understanding of and willingness to proactively pursue improvements to successfully accomplish this objective will be a positive factor in the evaluation of an applicant. Additionally, a response pointing to business needs should define the business needs involved in a determination to upgrade, improve or expand the facility. The upgrade plan may include what levels of success would be needed to implement various upgrades. These levels of success must be sufficiently objective to allow the Commission to efficiently review the plan and ensure compliance.

Question 36 requests information on the willingness to reimburse the communities for reasonable legal and professional fees. How and by whom will reasonable be determined? What scope of professional fees is to be considered in this question?

This is an issue to be negotiated with the HHPC.